

# COHENMILSTEIN

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March 2, 2023

**VIA ECF**

The Honorable Sarah Netburn  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Set Capital LLC, et al., v. Credit Suisse Group AG, et al.*,  
No. 18-CV-02268 (AT) (SN)

Dear Magistrate Judge Netburn:

We respectfully submit this letter to offer for the Court's consideration a request that documents originally filed publicly, then put under temporary emergency seal, be filed permanently under seal and be replaced with the attached redacted documents on the public docket.

On February 28, 2023, Plaintiffs submitted a letter, pursuant to this Court's February 22, 2023, order (ECF No. 243), explaining their position regarding Plaintiffs' request for a Rule 30(b)(6) deposition of Credit Suisse (ECF No. 249). Attached to that letter were six Exhibits: Plaintiffs' Rule 30(b)(6) notice (Exhibit A); the deposition transcript of Leonardo Mayer (Exhibit B); and four Credit Suisse documents produced in discovery (Exhibits 90, 133, 138, 148). On March 1, Plaintiffs received notice from Defendants that they believed that Exhibits B, 90, 133, 138 and 148 (the "Exhibits In Question") are Confidential under the June 21, 2021, Stipulated Protective Order (ECF No. 157) (the "Protective Order") but were filed publicly. Plaintiffs take no position on whether the Exhibits In Question are indeed Confidential.

Nevertheless, Plaintiffs immediately contacted the Court and requested that the Exhibits In Question be placed under emergency seal. Plaintiffs were informed that, under this District's

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Electronic Case Filing Rules & Instructions, Plaintiffs must “ask the presiding judge, in writing, for the filing to be formally sealed by the Court.”<sup>1</sup>

According to Defendants: with respect to Exhibits 90, 133, 138, and 148, each of these documents was designated as Confidential when produced. With respect to Exhibit B, per Section 5.1 of the protective order “[t]he entire testimony [of a deponent] shall be deemed to have been designated Confidential until the time within which the transcript may be designated has elapsed.”—i.e., “the later of (i) thirty (30) calendar days after receipt of the final transcript, or (ii) the date by which any review by the witness and statement of changes to the transcript are to be completed under Fed. R. Civ. P. 30(e).” The final copy of Mr. Mayer’s deposition transcript was not available until February 14, 2023.

As such, Plaintiffs provide attached to this letter redacted version of Exhibits B, 90, 133, 138, and 148 (and an unredacted version of Exhibit A) to be filed publicly, should the Court determine such a filing is appropriate.

Respectfully submitted,

*/s/ Laura H. Posner*  
Laura H. Posner

*Counsel for Lead Plaintiffs Set Capital LLC, Stefan Jager, Aleksander Gamburg, and Apollo Asset Limited*

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